IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
FIRST APPEAL NO.425 OF 1997

1. Bapusaheb Bharamgaunda Patil

2. Smt. Smita w/o Bapusaheb Patil

3. Navin Bapusaheb Patil

All adult, r/o Girnar Hill, Hindwadi, Belgaum. .... Appellants

\- Versus -

1. Ibrahim Gulab Mujawar, age Major, Occ: Driver, r/o Khandane, Taluka Patan, Dist: Satara.

2. Balasaheb Tukaram Patil, age Major, Occ: Agriculturist, r/o Khandane, Taluka Patan, Dist: Satara.

3. The New India Assurance Co. Ltd., Karad Branch, Karad, Satara. .... Respondents

Shri N.V. Bandivadekar with Ms Aradhan Prabhu for the Appellants.

Shri Rahul S. Kate for the Respondent Nos.1 and 2.

CORAM: R.M.S. KHANDEPARKAR & V.M. KANADE, JJ.

DATED: AUGUST 25, 2005

ORAL JUDGMENT (Per V.M.Kanade, J.):

1. The appellants are challenging the judgment and award passed by the Motor Accident Claims Tribunal, Satara to the extent of quantum of compensation granted to the appellants.

2. The brief facts are as under:

3. On 16-2-1990 the deceased Pravin Bapusaheb Patil who was the pillion rider on the motorcycle which was driven by his friend Ambewadikar met with an accident as the said motorcycle which was driven by his friend collided with a tractor-trolly which was driven by respondent No.1. In that accident Pravin, who was the son of appellant Nos.1 and 2, expired. The appellants filed a petition before the Motor Accident Claims Tribunal being Petition No.287 of 1990 and they claimed compensation of Rs.17,62,000/- with interest at the rate of 12% per annum from the date of the petition till the amount was actually paid to the claimants. The respondents contested the claim by filing written statement. In order to substantiate their claim the appellants examined appellant No.1 as also the motorcycle driver Ambewadikar and one income-tax inspector. The appellants also produced documentary evidence in support of their claim.

4. The learned Member, Motor Accident Claims Tribunal, Satara, partly allowed the petition and directed respondent Nos.1 to 3 to jointly pay an amount of Rs.1,55,000/- as compensation to the appellants along with interest at the rate of 12% per annum from the date of filing of the petition till the date of realisation.

Being aggrieved by the said judgment and order, the appellants have preferred the present appeal.

5. Learned counsel appearing on behalf of the appellants has taken us through the judgment and award passed by the Tribunal as also the evidence adduced by the appellants before the Tribunal. He has submitted that the Tribunal had erred in coming to the conclusion that the amount which was spent by the deceased on the appellants was Rs.1,000/- per month. He further submitted that the Tribunal also erred in coming to the conclusion that the multiplier which was applied to the facts and circumstances of the present case was 10. He submitted that the amount which was earned by the deceased Pravin being Rs.8,000/- per month, at the highest 1/3rd of the amount was liable to be deducted towards his own personal expenses and the balance 2/3rd amount ought to have been held to be the amount which was spent on the parents. In support of the said submission, he relied on the judgment of the Supreme Court in the case of **State of Maharashtra and another v. Jasbir Kaur and others,** reported in (2003) 7 SCC 484. He submitted that the fact that the deceased was filing return has been established by examining the income-tax officer who has stated in his evidence that deceased Pravin had filed returns 5 years prior to this death. He submitted that considering the ratio of the judgment in **Jasbir Kaur'** case (supra), the multiplier of 18 ought

to have been applied in the facts and circumstances of the present case and therefore the amount of compensation should have been awarded by applying the multiplier of 18 x 2666. Learned counsel appearing on behalf of the respondents, however, vehemently opposed the submissions made by the learned counsel appearing for the appellants. He submitted that the appellants had not established by leading evidence that deceased Pravin was hale and hearty at the time when the accident took place. He further submitted that though the income-tax officer had been examined, no evidence had come on record to show that in the returns which were filed by the deceased, his income was Rs.8,000/- per month. He submitted that the ratio on which reliance was placed by the learned counsel appearing on behalf of the appellants in the case of Jasbir Kaur would not be applicable to the facts of the present case and as it was distinguishable with the facts of the present case. Learned counsel appearing on behalf of the respondents relied on the judgment of the Supreme Court in the case of **U.P. State Road Transport Corporation and others . Trilok Chandra and others,** reported in 1996 ACJ 831. He submitted that the Supreme Court in the said case had laid down guidelines in respect of the formula which had to be applied for the purpose of arriving at the correct multiplier and that the Supreme Court had observed that the multiplier cannot in all the case be solely dependent on the age of the deceased and that the age of

the parents would also be relevant in the case where the deceased was a bachelor. He submitted that, therefore, the judgment and order of the Tribunal was liable to be confirmed.

6. It is well-settled by a catena of judgments of the Supreme Court and this Court that three factors have to be taken into consideration while arriving at the method which is popularly known as the "Multiplier" method. The three factors are that, firstly, it has to be determined what would be the life expectancy of the deceased; secondly the amount which was spent and likely to be spent by the deceased on the dependants has to be determined and thirdly the unponderable circumstances such as untimely death, other liabilities and expenses which would be incurred and the deductions which would have been made are also relevant factors. Essentially the principle behind applying the multiplier is that an attempt is made to find out the amount of purchases which the deceased would have made in a given time so that the said amount could be multiplied by the number of years which the dependents would receive the purchase value or such amount from the deceased. In the light of the settled position in law, the facts and circumstances of the present case will have to be taken into consideration.

7. The deceased admittedly was 23 years of age and was

a bachelor and was working with his father in the family business. The appellant No.1 in his evidence has stated that his son used to look after his business about 4-5 years earlier to his death and that he has 3-4 business concern and the deceased Pravin was a partner in those firms. He has stated that he used to pay salary to him from one of the companies, namely, Paston Agencies and he was retainer in B.T. Patil and Sons Pvt. Ltd. He further stated that he used to get his share in the profits of S.B.P. and Company. He has stated that the deceased was an income-tax payer and after the death of his son he has paid income-tax on his behalf. On the basis of the income-tax returns he has stated that the income of his deceased son was between Rs.90,000/- to Rs.1,00,000/- per annum. He has stated that Pravin was hale and hearty. He has also stated that his father died at the age of 65 years and that his mother was still alive and was about 84 years of age. Though no documents have been produced by this witness, the appellants have examined the income-tax officer who has produced the income-tax returns. The witness No.3 Satyabhut K. Raichukkar has produced the copies of the returns submitted by Pravin for the years 1987-88, 1988-89 and 1989-90 and also copies of the assessment orders of the year 1989-90 and 1990-91. The evidence is not seriously challenged by the respondents. Though in the cross-examination appellant No.1 has stated that he had no documentary evidence to show that the deceased

was a partner in the firm and no document has been placed on record to show the payment of income-tax or assessment of the income of the said period, this documentary evidence has been produced on record through the income-tax officer witness No.3. In our view, the appellants have therefore established that the income of deceased Pravin was between Rs.90,000/- to Rs.1,00,000/- per year.

8. The next question which will have to be considered is what would have been the life expectancy of deceased Pravin. It is no doubt true that there is a solitary statement made by appellant No.1 in his evidence in which he has stated that Pravin was hale and hearty and he has stated that his father died at the age of 65 and his mother was alive and was 84 years of age. Apart from that, no other evidence has come on record to show that the deceased was not suffering from any ailment. In view of this evidence and considering the fact that the father of appellant No.1 died at the age of 65, we are also taking judicial notice of the fact that the life expectancy in India is between 60-65 years and in our view it will have to be held that the life expectancy of deceased Pravin will have to be fixed at 65 years.

9. The last question which will have to be considered is what was the amount which was spent by the deceased

on his parents and for how many years the appellants would have received the benefit of the income or the expenditure, the amount of money which he would have spent on the appellants. In the present case, appellant No.1, the father of the deceased, was 65 years of age. He had, therefore, practically reached the age where at the highest he could have received money from the deceased for a period of 5-10 years. The appellant No.2, mother of the deceased, was 50 years of age at the time when the accident took place and therefore considering the average life expectancy she would have got the benefit of the income of the deceased for a period of 15 years. The appellant No.3 was major and was earning separately and, therefore, there is no question of any amount being spent on appellant No.3. Taking an overall view of the matter and considering the peculiar facts and circumstances of the case, we are of the view that the Tribunal erred in holding that the multiplier of 10 is applicable to the present case. Since we have held that the deceased's life expectancy was 65 years and the mother was 50 years of age, she would have got the benefit of part of the income of the deceased for a period of 15-18 years. If certain imponderable circumstances are taken into consideration such as the sickness, liabilities and loss in business, a period of three years will have to be deducted from the period of 18 years and therefore, in our view, the correct multiplier would be 15 and not 10. So far as

the question of the amount which was spent by the deceased on the dependants is concerned, in our view, the Tribunal has correctly assessed the evidence on record and has held that the amount which was spent by the deceased was not more than Rs.1,000/- per month. Firstly, the appellants have not led any evidence in support of this particular fact that he had spent more amount. In fact, there is no evidence to suggest what was the amount that was spent by the deceased. In view of this, we do not feel that it is necessary to interfere with the finding arrived at by the Tribunal in respect of the calculation of the amount spent by the deceased on the appellants. Thus, in our view, the multiplier of 15 is taken to be the multiplier and if an amount of Rs.1,000/- p.m. is multiplied, then the appellants will be entitled to get an amount of Rs.1,70,000/- i.e. 1000 x 12 x 15 instead of Rs.1,20,000/-, as has been arrived at by the Tribunal. So far as the judgment on which reliance is placed by the learned counsel on behalf of the appellants is concerned, in our view, the ratio of the said judgment cannot be applied to the facts of the present case. In the said case, the deceased was an agriculturist and his income was estimated to be Rs.4,500/- per month and on that basis the monthly income was fixed at Rs.3,000/- after deducting Rs.1,500/- for personal expenditure. In the light of these facts, the Supreme Court had arrived at the multiplier of 18. In the present case the

deceased was a businessman and appellant No.1 was the earning member and the head of the H.U.F. There was no occasion for the deceased to spent more money on his family as their needs were taken care of by appellant No.1. The ratio of the said judgment will not be applicable to the facts of the present case.

10. The Tribunal, in our view, has without taking into consideration the three factors which are normally considered arrived at the multiplier of 10 and therefore the said observations and findings are set aside.

11. In the result, the appeal is partly allowed. The rest of the findings of the Appellate Court are confirmed and the compensation is accordingly increased from Rs.1,20,000/- to Rs.1,70,000/-. The other components of the compensation which are arrived at by the Tribunal are confirmed. The appeal is allowed in the above terms. In the circumstances, there shall be no order as to costs. The appellants will be entitled to get interest at the rate of 10% on the enhanced amount from the date of filing of the claim till realisation.

(V.M. Kanade, J.) **(R.M.S. Khandeparkar, J.)**